

jc612 U.S. PTO
12/31/98

A

Patent
239/104

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Anticipated Classification of this application:
Class _____ Subclass _____
Prior application: 08/876,775
Examiner: Banks-Harold, M.
Art Unit: 2745

jc588 U.S. PTO
09/224477
12/31/98

BOX PATENT APPLICATION
Assistant Commissioner for Patents
Washington, D.C. 20231

FILING UNDER 37 CFR 1.53(B)

This is a request for filing for a

☒ continuation ☐ divisional

application under 37 C.F.R. 1.53(b) of pending prior application Serial No. 08/876,775, filed on June 16, 1997, which is a continuation of application Serial No. 08/410,901, filed on March 27, 1995, now U.S. Patent No. 5,640,674, which is a continuation of application Serial No. 07/682,050 filed on April 8, 1991, now U.S. Patent No. 5,402,413, of

Robert C. Dixon

for: WIRELESS CELLULAR COMMUNICATION SYSTEM (AS AMENDED)

1. COPY OF PRIOR APPLICATION AS FILED WHICH IS ATTACHED

☒ I hereby verify that the attached papers are a true and complete copy of what is shown in my records to be the above-identified prior application, including the oath or declaration as originally filed. (37 CFR 1.53)

13 Pages of Specification
3 Pages of Claims
1 Pages of Abstract
2 Sheets of Drawings X formal Informal
2 Pages of Declaration
1 Page of Power of Attorney
 Small Entity Statement

CERTIFICATE OF MAILING (37 C.F.R. §1.10)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as 'Express Mail Post Office To Addressee' (Label No. EM 351251479 US) in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

December 31, 1998
Date of Deposit
LA-66277.1

Connie Kwon
Connie Kwon

09224477-123198

- ☒ In accordance with the indication required by 37 CFR 1.53(b), my records reflect that the original signed declaration showing applicant's signature was filed on May 31, 1991.
- ☐ The amendment referred to in the declaration filed to complete the prior application, and I hereby state, in accordance with the requirements of 37 CFR 1.53(b), that this amendment did not introduce new matter therein.

2. AMENDMENTS

- ☐ Cancel in this application original Claims _____ of the prior application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes.)
- ☒ A Preliminary Amendment is enclosed. (Claims added by Amendment must be numbered consecutively beginning with the number next following the highest numbered original claim in the prior application.)

3. INFORMATION DISCLOSURE STATEMENT

- ☒ An Information Disclosure Statement, PTO 1449, and copies of the references are not enclosed, as each of the items was cited by or submitted to the Patent Office in one of prior applications from which priority is claimed under 35 U.S.C. §120.

4. PETITION FOR SUSPENSION OF PROSECUTION FOR THE TIME TO FILE AN AMENDMENT

- ☐ There is provided herewith a PETITION FOR SUSPENSION OF PROSECUTION FOR THE TIME NECESSARY TO FILE AN AMENDMENT (NEW APPLICATION FILED CONCURRENTLY).

5. FEE CALCULATION

BASIC FILING FEE:				\$760.00
Total Claims	5	- 20	= 0 x \$18	\$0.00
Independent Claims	2	- 3	= 0 x \$78	\$0.00
Multiple Dependent Claims	\$260 (if applicable)			
Surcharge 37 CFR 1.16(e)	\$130 (if applicable)			
TOTAL OF ABOVE CALCULATIONS				\$ 760.00
Reduction by ½ for Filing by Small Entity. Note 37 CFR 1.9, 1.27, 1.28. If applicable, Verified Statement must be attached.				
Misc. Filing Fees (Recordation of Assignment)				
TOTAL FEES SUBMITTED HEREWITH				\$760.00

- ☐ The fee for extra claims is not being paid at this time.

Filing Fee Calculation

6. **SMALL ENTITY STATUS**

- ☐ A Verified Statement to establish small entity under 37 CFR 1.9 and 1.27 is attached
- ☐ has been filed in the prior application and such status is still proper and desired. [37 CFR 1.28(a)]

Filing Fee Calculation (50% of above) \$0.00

7. **DRAWINGS**

[NOTE: DO NOT CHECK THIS IF PRIOR CASE IS NOT TO BE ABANDONED.]

- ☐ Transfer the drawings from the prior application to this application and, subject to Item 16 below, abandon said prior application as of the filing date accorded to this application. A duplicate copy of this request is enclosed for filing in the prior application file.
[May only be used if signed by (1) applicant, (2) assignee of record or (3) attorney or agent of record authorized by 37 CFR 1.138 and before payment of issue fee.]
- ☐ Transfer the following sheet(s) of drawings from the prior application to this application.
- ☒ New drawings are enclosed ☒ formal ☐ informal

8. **PRIORITY - 35 U.S.C. 119**

- ☐ Priority of application Serial No. _____ filed on _____ in _____ [country] is claimed under 35 U.S.C. 119.
- ☐ The certified copy has been filed in prior U.S. application Serial No. _____ on _____.
- ☐ The certified copy will follow.

9. **RELATE BACK - 35 U.S.C. 120**

- ☒ Amend the Specification by inserting on page 1, after line 15, please insert:

Related Application Data

This application is a continuation of Application Serial No. 08/876,775, filed on June 16, 1997, which is a continuation of Application Serial No. 08/410,901, filed on March 27, 1995, now U.S. Patent No. 5,640,674, which

is a continuation of Application Serial No. 07/682,050 filed on April 8, 1991,
now U.S. Patent No. 5,402,413. *N*

10. INVENTORSHIP STATEMENT

- ☐ With respect to the prior co-pending U.S. application from which this application claims benefit under 35 U.S.C. 120, the inventor(s) in this application is (are):
- ☐ the same
- ☐ less than those named in the prior application and it is requested that the following inventor(s) identified above for the prior application be deleted:
- [type name(s) of inventor(s) to be deleted]
- ☐ The inventorship for all the claims in this application are:
- ☐ the same
- ☐ not the same, and an explanation, including the ownership of the various claims at the time the last claimed invention was made, is submitted.

11. ASSIGNMENT

- ☒ The prior application is assigned of record to Omnipoint Corporation.

Omnipoint Corporation
Name of Assignee

1365 Garden of the Gods Road, Colorado Springs, Colorado 80907
Address of Assignee

Title of person authorized to sign on behalf of assignee

Assignment recorded in PTO on June 10, 1991, Reel 5747, Frame 081 and subsequent Change of Name and Address of Assignee from Omnipoint Data Company to Omnipoint Corporation recorded in PTO on August 20, 1996, Reel 8095, Frame 0429.

- ☐ An Assignment of the invention to _____ is attached.

12. TERMINAL DISCLAIMER

- ☒ A Terminal Disclaimer is attached.

13. **FEE PAYMENT BEING MADE AT THIS TIME**

- ☐ Not attached. No filing fee is submitted. [This and the surcharge required by 37 CFR 1.16(e) can be paid subsequently.]
- ☒ Attached.
- ☒ Filing fee. \$760.00
- ☒ Terminal Disclaimer fee. \$110.00
- ☐ Recording assignment. [**\$40.00** 37 CFR 1.21(h)(1)]
Petition fee for filing by other than all the inventors or
person on behalf of the inventor where inventor refused
to sign or cannot be reached.
[**\$130.00**; 37 CFR 1.47 and 1.17(h)]
- ☐ Petition fee to Suspend Prosecution for the Time
Necessary to File an Amendment (New Application Filed
Concurrently).
[**\$130.00**; 37 CFR 1.103 and 1.17(i)(1)]
- ☐ For processing an application with a specification
in a non-English language.
[**\$130.00**; 37 CFR 1.52(d) and 1.17(k)]
- ☐ Processing and retention fee.
[**\$130.00**; 37 CFR 1.53(d) and 1.21(l)]

Total Fees Enclosed \$870.00

14. **METHOD OF PAYMENT OF FEES**

- ☒ Attached are two checks in the amount of \$870.00.
- ☐ Charge Deposit Account No. **12-2475** in the amount of \$0.00.

15. **AUTHORIZATION TO CHARGE ADDITIONAL FEES**

The Commissioner is hereby authorized to charge the following additional fees by this paper and during the entire pendency of this application to Deposit Account No. **12-2475**:

- ☒ 37 CFR 1.16 (filing fees)
- ☒ 37 CFR 1.16 (presentation of extra claims)

- ☒ 37 CFR 1.16(e) (surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application)
- ☐ 37 CFR 1.17 (application processing fees)
- ☐ 37 CFR 1.18 (issue fee at or before mailing of Notice of Allowance, pursuant to 37 CFR 1.311(b))

16. **INSTRUCTIONS AS TO OVERPAYMENT**

- ☒ Credit Deposit Account No. **12-2475**.
- ☐ Refund

17. **POWER OF ATTORNEY**

- ☐ The power of attorney in the prior application is to
- ☒ The power of attorney in the prior application is to the registered attorneys listed below and members of or associates in the law firm of **LYON & LYON LLP**, 633 West Fifth Street, 47th Floor, Los Angeles, California 90071, Registration No. 11,611, whose members are registered to practice in the U.S. Patent and Trademark office:

Roland N. Smoot, Reg. No. 18,718
Conrad R. Solum, Jr., Reg. No. 20,467
James W. Geriak, Reg. No. 20,233
Robert M. Taylor, Jr., Reg. No. 19,848
Samuel B. Stone, Reg. No. 19,297
Douglas E. Olson, Reg. No. 22,798
Robert E. Lyon, Reg. No. 24,171
Robert C. Weiss, Reg. No. 24,939
Richard E. Lyon, Jr., Reg. No. 26,300
John D. McConaghy, Reg. No. 26,733
William C. Steffin, Reg. No. 26,811
Coe A. Bloomberg, Reg. No. 26,605
J. Donald McCarthy, Reg. No. 25,119
John M. Benassi, Reg. No. 27,483
James J. Shalek, Reg. No. 29,749
Allan W. Jansen, Reg. No. 29,035
Robert W. Dickerson, Reg. No. 29,914
Roy L. Anderson, Reg. No. 30,240
David B. Murphy, Reg. No. 31,125

James C. Brooks, Reg. No. 29,898
Jeffrey M. Olson, Reg. No. 30,790
Steven D. Hemminger, Reg. No. 30,755

- ☒ The power appears in the original papers in the prior application.

- ☐ The power does not appear in the original papers, but was filed on _____ in this application.
- ☐ A new power has been executed and is attached.
- ☒ Address all future communications to:

LYON & LYON LLP
633 West Fifth Street, 47th Floor
Los Angeles, California 90071
(714) 751-6606
(213) 489-1600
Attention: Christopher A. Vanderlaan

18. **MAINTENANCE OF CO-PENDENCY OF PRIOR APPLICATION**

- ☐ A petition, fee and response has been filed to extend the term in the pending **prior** application until _____. A copy of the petition for extension of time in the **prior** application is attached.

19. **CONDITIONAL PETITIONS FOR EXTENSION OF TIME IN PRIOR APPLICATION**

- ☐ A conditional petition for extension of time is being filed in the pending **prior** application. A copy of the conditional petition for extension of time in the **prior** application is attached.


20. ABANDONMENT OF PRIOR APPLICATION

- ☐ Please abandon the prior application at a time while the prior application is pending or when the petition for extension of time or to revive in that application is granted and when this application is granted a filing date so as to make this application co-pending with said prior application. At the same time, please add the words "now abandoned" to the amendment of the specification set forth in Item 13 above.

Respectfully submitted,

LYON & LYON LLP

Dated: DECEMBER 31, 1998

By: 
Christopher A. Vanderlaan
Reg. No. 37,747
Attorneys for Applicants

633 West Fifth Street, Suite 4700
Los Angeles, California 90071-2066
(213) 489-1600

Enclosures

0922447-123196

CERTIFICATE OF MAILING (37 C.F.R. § 10)

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below as "Express Mail" (Post Office to Addressee) in an envelope addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Mailing label No. FB209618948 US

Date of deposit: April 5, 1991

Aide G. Silva
printed name

Aide G. Silva
signature of person actually
mailing paper